

**EXPLANATORY MEMORANDUM TO**  
**THE OCCUPATIONAL PENSION SCHEMES (CONSULTATION BY**  
**EMPLOYERS) (MODIFICATION FOR MULTI-EMPLOYER SCHEMES)**  
**REGULATIONS 2006**

**2006 No. 16**

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 Sections 259 and 261 of the Pensions Act 2004 (the Act) contain regulation making powers prohibiting employers and trustees or managers making certain changes to occupational pension schemes without prior consultation of the employees affected by the changes. These Regulations modify those powers in their application to multi-employer occupational pension schemes. This enables the powers to impose the same prohibition on persons who are not employers and trustees or managers of such schemes if they have the power to make similar changes to multi-employer schemes.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

4. **Legislative Background**

4.1 The Act provides for regulations to require employers to consult with employees who will be affected by a proposal to make certain changes to employees' pension arrangements. The detailed requirements will be contained in the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 ("the Consultation by Employer Regulations"), which were laid on the same day.

4.2 Section 307 of the Act provides for regulations to make modifications of certain provisions in that Act in respect of multi-employer occupational pension schemes. This extends to modifications of powers under which the Consultation by Employers Regulations will be made. This is the first use of this power.

4.3 The modification in these Regulations will allow Consultation by Employers Regulations to apply to decisions by persons other than employers or trustees or managers of a multi-employer occupational pension scheme.

## **5. Extent**

5.1 This instrument applies to Great Britain.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1 Following consultation on “Simplicity, security and choice: Working and saving for retirement”, the Government gave a commitment in June 2003 to make it a requirement on employers to consult before making changes to pension schemes. This would ensure changes are developed in partnership and address anxieties about future pension provision.

### Consultation

7.2 The Department for Work and Pensions published the draft Occupational and Personal Pension Schemes (Consultation by Employers) Regulations 2006 for consultation on 6 June 2005, which included the provision now in The Occupational Pension Schemes (Consultation By Employers) (Modification for Multi-Employer Schemes) Regulations 2006. There were no responses to the consultation on this provision in the draft regulations.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

## **9. Contact**

Dave Nicks at the Department for Work and Pensions, tel: 020 7962 8564 or email: Dave.Nicks@dwp.gsi.gov.uk can answer any queries regarding this instrument.